

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ELECTRONIC PRIVACY INFORMATION CENTER,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF JUSTICE,

Defendant.

Civ. Action No. 19-810 (RBW)

JOINT STATUS REPORT

Pursuant to the Court’s Minute Order dated October 11, 2019, Plaintiff Electronic Privacy Information Center (“EPIC”) and Defendant U.S. Department of Justice (“DOJ”), by and through undersigned counsel, respectfully submit this Joint Status Report and Motion to Adopt a Schedule for Further Proceedings.

1. Category 6(a) of EPIC’s FOIA Request seeks, “All ‘report[s],’ ‘recommendation[s],’ and other ‘compilation[s] of information’ prepared for the eventual consideration of one or more members of Congress, whether or not such records were actually transmitted to any party outside of the Special Counsel’s Office,” and cites to *In re Report & Recommendation of June 5, 1972 Grand Jury Concerning Transmission of Evidence to House of Representatives*, 370 F. Supp. 1219, 1221, 1226 (D.D.C. 1974), *aff’d sub nom. Haldeman v. Sirica*, 501 F.2d 714 (D.C. Cir. 1974).

2. Category 6(b) of EPIC’s FOIA Request seeks, “All drafts, outlines, exhibits, and supporting materials associated with any actual or planned report, recommendation, or compilation of the type described in Category (6)(a) of this request[.]” Per the parties’

agreement as reflected in their Joint Status Report, Dkt. 61, EPIC narrowed the scope of this request by striking the terms “drafts” and “outlines,” and by defining “supporting materials” to mean “all attachments, appendices, and enclosures associated with the documents described in subpart (a) of each category.”

3. On August 8, 2019, DOJ informed EPIC that no records responsive to Category 6 of EPIC’s FOIA Request were located.

4. In response to an inquiry from EPIC, on October 3, 2019, DOJ provided EPIC with DOJ’s search methodology for identifying records responsive to Categories 2 through 7 of EPIC’s FOIA Request.

5. On October 10, 2019, EPIC requested that DOJ conduct an additional search for records responsive to Category 6 of EPIC’s FOIA Request using the commonly understood definitions of the terms “reports,” “recommendations,” and “compilations of information.”

6. On October 31, 2019, DOJ agreed to conduct an additional search for records responsive to Category 6 of EPIC’s FOIA Request using the commonly understood definitions of the terms “reports,” “recommendations,” and “compilations of information.”

7. DOJ anticipates that its additional search for records responsive to Category 6 of EPIC’s FOIA Request will be completed in three months. Once the search and responsiveness review of any potentially responsive records located through OIP’s search are completed, OIP will provide EPIC with a schedule, based on the number of responsive records located, if any, to process and release all non-exempt, responsive records.

8. Accordingly, the parties hereby agree to adopt the following proposed schedule:

- The parties will file a Joint Status Report on or before February 7, 2020, which shall include the status of OIP’s search for responsive records and a proposed schedule for further proceedings, if necessary.

The adoption of this schedule will facilitate the efficient resolution of this lawsuit and conserve the Court's resources.

Dated: November 8, 2019

Respectfully Submitted,

MARC ROTENBERG
EPIC President and Executive Director

HASHIM MOOPPAN
Assistant Attorney General
Civil Division

ALAN BUTLER,
EPIC Senior Counsel
butler@epic.org

ELIZABETH SHAPIRO
Deputy Director
Federal Programs Branch

/s/ John Davisson
JOHN DAVISSON,
EPIC Counsel

By: /s/ Courtney D. Enlow
COURTNEY D. ENLOW
Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, N.W.
Room 12102
Washington, D.C. 20005
(202) 616-8467
courtney.d.enlow@usdoj.gov

ELECTRONIC PRIVACY
INFORMATION CENTER
1519 New Hampshire Ave NW
Washington, D.C. 20036
(202) 483-1140 (telephone)
(202) 483-1248 (facsimile)

Attorneys for Plaintiff EPIC

Counsel for Defendant